

SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION

OMB Number: 1810-0662

Revised 03/21/2017

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section. Please limit pasted text to no longer than 3 pages. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.*

The U.S. Department of Education (the Department) is requesting a revision to the currently approved information collection OMB No. 1810-0662. This collection of information is necessary to collect information under the Title I, Part C Migrant Education Program (MEP). The MEP is authorized under sections 1301-1309 of Part C of Title I of the Elementary and Secondary Education Act (ESEA)¹, as amended. Regulations for the MEP are found at 34 CFR § 200.81-200.89. This information collection covers regulations with information collection requirements (see below). These requirements pertain to information that State educational agencies (SEAs) must collect in order to properly administer the MEP. Most provisions do not require SEAs to submit the information collected to the Department, with the exception of the provisions under 34 CFR § 200.89(b).

The particular regulations with information collection requirements are 34 CFR §§ 200.83, 200.84, 200.88, and 200.89 (b)-(d). There is one additional MEP regulatory section, (34 CFR § 200.85), which contains information collection requirements. Those information collection requirements, which pertain to the Migrant Student Information Exchange (MSIX), are covered by OMB No. 1810-0683.

- 34 CFR § 200.83 establishes minimum requirements a State Educational Agency (SEA) must meet for development of a comprehensive needs assessment and plan for service delivery as required under section 1306(a) of the ESEA.
- 34 CFR § 200.84 establishes minimum requirements the SEA must meet to implement the program evaluation required under section 1304(c)(5) of the ESEA.
- 34 CFR § 200.88 clarifies for the purposes of the MEP, only "supplemental" State or

¹ Throughout this document, unless otherwise indicated, citations to the ESEA refer to the ESEA, as amended by the Every Student Succeeds Act (ESSA).

local funds that are used for programs that meet the intent and purposes of the MEP may be excluded in terms of determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute (section 1118 of the ESEA).

- 34 CFR § 200.89(b) establishes the minimum requirements an SEA must meet to carry out re-interviews of a sample of migrant families. Re-interviews allow SEAs to examine and validate their statewide MEP eligibility determinations, to generate a defect rate for adjusting SEA migrant child counts, if necessary, and to ensure ongoing quality control in future eligibility determinations. This regulatory requirement is consistent with sections 1303(e) and 1309(2)-(5) of ESEA.
- 34 CFR § 200.89(c) establishes minimum requirements an SEA must meet to document its eligibility determinations under the MEP (including the use of a standard Certificate of Eligibility (COE) form). This regulatory requirement is consistent with sections 1303(e) and 1309(2)-(5) of the ESEA.
- 34 CFR § 200.89(d) establishes minimum requirements for a system of quality controls that an SEA must implement to ensure accurate eligibility determinations under the MEP. This regulatory requirement is consistent with sections 1303(e) and 1309(2)-(5) of the ESEA.

The Department is requesting a revision to this information collection in order to address changes to MEP eligibility made by the Every Student Succeeds Act (ESSA), which reauthorizes and amends the authorizing statute, ESEA. The changes to MEP eligibility criteria must be reflected on the national COE, which, as noted above, is an information collection required by 34 CFR § 200.89(c).

A copy of the relevant statute and regulations are attached (Attachment A and B, respectively). One information collection instrument, the National COE Instructions under 34 CFR § 200.89(c), is also provided with this Supporting Statement.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The needs assessment and service delivery information required by 34 CFR § 200.83 are used by the SEA to design and implement an effective statewide MEP. The evaluation information required by 34 CFR § 200.84 is used by the SEA to assess the effectiveness of the statewide MEP and to promote improved service delivery. The advance written determination by an SEA required by 34 CFR § 200.88 (that a State or locally funded program meets the intents and purposes of Part C of Title I) is used by the SEA to support the exclusion of "supplemental" State or local funds in determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute.

The re-interview information required by 34 CFR § 200.89(b) is used by the SEA and the

Secretary to estimate the accuracy of program eligibility determinations and to make needed improvements. The information is also used by the Secretary to make necessary adjustments to State MEP allocations; such information was used to adjust FY 2009 MEP allocations. The eligibility materials required by 34 CFR § 200.89(c) are used by SEAs to clearly document the basis for the determination of program eligibility of each migratory child identified by the SEA and for determining which children are eligible for MEP services. The information required by 34 CFR § 200.89(d) is used by the SEA to examine and document the implementation of its quality control system and to enable the SEA to determine and implement necessary improvements.

As noted in response to Question 1, this collection of information does not require SEAs to submit the information collected to the Department except for 34 CFR § 200.89(b). Instead, the information is for SEAs to use in documenting eligible migratory children and in designing, operating and evaluating their State MEP.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration given to using technology to reduce burden.*

The regulations themselves do not require nor preclude SEAs from using automated, electronic, mechanical, or other technological collection techniques to reduce burden. As noted earlier, most of the information to be collected by SEAs will not be further collected by the Department from the SEAs (with the exceptions of 34 CFR § 200.89(b)). SEAs electronically report as part of the Consolidated State Performance Report (CSPR) the results of the information collected under 34 CFR § 200.89(b)(2). The information collected under 34 CFR § 200.89(b)(1) would be collected, if necessary, via a report that SEAs would send electronically to the Department. Many SEAs will use information technology (e.g., an electronic COE) to collect and analyze data. Facsimile and computer systems will be used to transmit and store data.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2 above.*

The eligibility documentation information, re-interviewing information, quality control process documentation, needs assessment and service delivery information, evaluation information, and the advance written determination supporting the exclusion of "supplemental" State or local funds in determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute required by this collection are unique to this program and the particular grantee. Other than State assessment data to be collected under the Title I assessment requirements for use in 34 CFR §§ 200.83 and 200.84, the information to be collected by the SEA under 34 CFR §§ 200.83, 200.84, and 200.88 and §§ 200.89(b), 200.89(c) and 200.89(d) are not in any other data collection, and are necessary for the SEA to design, implement, and improve its Statewide MEP. These student-level data are not being collected under EDEN/EDFacts.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.*

Small businesses and entities are not impacted by this data collection.

6. *Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

The Department would be unable to calculate State MEP allocations and to adjust allocations in cases where SEAs have identified high numbers of ineligible children. In addition, the Department would be unable to monitor adequately SEA implementation and operation of the MEP and use of Federal funds.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

The regulations do not require the information collection to be conducted in a manner inconsistent with the requirements of 5 CFR 1320.5(d)(2).

8. *As applicable, state that the Department has published the 60 and 30 Federal Register notices as required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Department has published the 60- and 30-day Federal Register notices. We received comments from 10 respondents during the 60-day comment period, and responses to those comments are attached.

Relative to existing 34 CFR § 200.89(c): The national COE Instructions were updated to reflect recent changes to the program eligibility criteria made by the ESSA, which amends and reauthorizes the ESEA, and which was signed into law by President Barack Obama in December 2015. The changes to MEP requirements, including changes to program eligibility, will be effective starting July 1, 2017. SEAs will be required to use the revised COE on and after July 1, 2017, provided OMB approves this information collection prior to that date.

The Department has engaged in ongoing consultation with MEP stakeholders regarding the changes to program eligibility which will be reflected in the revised national COE (e.g., during the Annual Directors Meeting (ADM) on February 29 – March 2, 2016, the National Association of State Directors of Migrant Education (NASDME) annual conference on April 24 – 27, 2016, and the Interstate Migrant Education Council (IMEC) on May 19 and October 5, 2016).

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees with meaningful justification.*

The regulations do not require gifts or payments to be made to respondents.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the ICRAS' Part 2 IC form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided. Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation –*

Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information). If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data.

The specific MEP regulations discussed in this information collection package require no assurance of confidentiality. However, because the COE form required under 34 CFR § 200.89(c) is an “educational record”, State and local operating agencies are required to comply with the Family Educational Rights and Privacy Act (FERPA) of 1974. FERPA establishes when States and local operating agencies can and cannot disclose “educational records” without parental consent.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The regulations do not require any questions of sensitive nature in this collection of information.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in Question 12. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
- If this request for approval covers more than one form, provide separate hour burden estimates for each form. (The table should at minimum include Respondent types, Number of Respondents and Responses, Hours/Response, and Total Hours)*

- *Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Question 14.*

Estimated hour burden for the collection of information.

As presented in greater detail below, we estimate that it will require 10,329 hours per State respondent and 2 hours per migrant parent to respond to the requirements of these regulations.

We estimate that it will require approximately 1,044 hours per State (overall) to address the requirements of 34 CFR §200.83. We estimate that it will require approximately 440 hours per State (on a one-time basis) to address the requirements of 34 CFR §200.84. We estimate that it will require approximately 4 hours per State (on a one-time basis) to address the requirements of 34 CFR §200.88.

We estimate that it will require approximately 221 hours per State respondent, and 0.5 hours per migrant parent respondent (annually) to address the requirements of 34 CFR §200.89(b). We estimate that it will require approximately 7,939.13 hours per State and 1.5 hours per parent (overall) to address the requirements of 34 CFR §200.89(c). We estimate that it will require approximately 681 hours per State to address the requirements of 34 CFR §200.89(d).

These estimates were developed by program staff with prior experience in the State-level administration of the MEP. [See the tabular summaries below for a fuller explanation of the calculations.]

§ 200.83	Frequency of response	# of Respondents	Average # of Hours per respondent	Total Hours	Description
Needs Assessment					
Data Collection (<i>record-keeping</i>)	One Time	46 SEAs	643.50	29,601	This estimate includes the time required to design and collect information through surveys of samples of parents, staff and LEAs with migrant students regarding migrant students' needs and the whether other programs' services are already available.
Analysis & Reporting (<i>record-keeping</i>)	One Time	46 SEAs	160	7,360	This estimate includes the time for SEA staff to analyze the collected needs assessment data and summarize the results.
Plan Development (<i>record-keeping</i>)	One Time	46 SEAs	160	7,360	This estimate consists of the time needed for SEA staff to draft, revise and clear a comprehensive service delivery plan that responds to the identified needs of students and coordinates services across the MEP and other available services.
Plan Update (<i>record-keeping</i>)	One Time	46 SEAs	80	3,680	This estimate consists of the time needed for SEA staff to update the comprehensive service delivery plan in response to the

					results of program evaluations.
Total for §200.83		46 SEAs	1,043.5	48,001	

§ 200.84 Activities	Frequency of response	# of Respondents	# of Hours per respondent	Total Hours	Description
Evaluation					
Data Collection (<i>record-keeping</i>)	One Time	46 SEAs	120	5,520	This estimate consists of the time to collect project observation data in a 30 percent sample of MEP project sites nationally. (The estimate does not include the time associated with collecting student-level assessment data since student assessment data is exempt from the paperwork clearance process.)
Analysis & Reporting (<i>record-keeping</i>)	One Time	46 SEAs	320	14,720	This estimate consists of the time needed for SEA staff to analyze and summarize the project and student data to determine the effectiveness of the State’s MEP program.
Total for §200.84		46	440	20,240	One Time

§ 200.88 Activities	Frequency of response	# of Respondents	# of Hours per respondent	Total Hours	Description
Written determination	One Time	46 SEAs	4	184	This estimate consists of the time needed

<i>(record-keeping)</i>					for SEA staff to analyze and prepare a written determination in support of exclusion.
Totals for § 200.88		46	4	184	One Time

200.89(b)	Frequency of response	# of Respondents	Average # of Hours per respondent	Total Hours	Description
(1) Retrospective Re-interviewing					
<i>Re-interviews (record-keeping)</i>	One Time	2 ² SEAs	1,200	2,400	Assuming an average sample of 300 children per State and an average time of 4 hours ³ (including multiple attempts) to locate, travel to & re-interview each child's parent/guardian, including an average of ½ hour per family to conduct the re-interview per State
		300 parents ⁴ of migrant children per State = 600 parents	0.5	300	
<i>Analysis & Reporting (record-keeping and reporting)</i>	One Time	2 SEAs	380	760	Assuming an average sample of 300 children and 1 hour per child to analyze eligibility findings and 80 hours to construct the report.
Subtotal (1)	One Time	2 SEAs	1,580	3,160	

² Because no SEAs have had to re-do the retrospective re-interview process and no SEAs have had to go through the process as a result of corrective action, it is unlikely that 4 states will need to do so in the next three years. As a result, this estimate has been reduced from 4 SEAs to 2 SEAs.

³ We estimate 4 hours to locate/re-interview each child retrospectively since these re-interviews will be taking place up to four years after the initial eligibility determination was done.

⁴ Assumes only 1 parent/guardian per family needs be interviewed.

		600 parents	0.5	300	
				3,460	
(2) Prospective Re-Interviewing					
Re-interviews <i>(record-keeping)</i>	Annually	46 ⁵ SEAs	100	4,600	Assuming an average sample of 50 children per State and an average time of 2 hours ⁶ (including multiple attempts) to locate, travel to & re-interview each child's parent/guardian, including an average of ½ hour per family to conduct the re-interview per State.
		50 parents of migrant children per State (46) = 2,300 parents	0.50	1,150	
Analysis <i>(record-keeping)</i>	Annually	46 SEAs	50	2,300	Assuming an average sample of 50 children per State and 1 hour per child to analyze eligibility findings.
Report as part of Consolidated State Performance Report ⁷ <i>(reporting)</i>	Annually	46 SEAS	2	92	Assuming it will take no more than 2 hours per State to summarize the new findings for the report.

⁵ We estimate 46 SEAs since the SEAs for Rhode Island, Connecticut, West Virginia, Wyoming, the District of Columbia, and Puerto Rico no longer participate in the MEP.

⁶ We estimate 2 hours to locate/re-interview each child prospectively since these re-interviews will take place soon after the initial eligibility determination was done in any program year.

⁷ The Consolidated State Performance Report has already been cleared through 05/31/2018 under OMB No. 1810-0724.

Subtotal (2)	Annually	46 SEAs	152	6,992	
		2,300 parents	0.5	1,150	
				8,142	
TOTAL for §200.89(b)		46 SEAs	220.70 ⁸	10,152	
		2,900 ⁹ Parents	0.5	1,450	
				11,602	

200.89(c)	Frequency of response	# of Respondents	Average # of Hours per respondent	Total Hours	Description
Eligibility Documentation					
Conduct the interview (<i>record-keeping</i>)	Once per 3-years of eligibility	46 SEAs	4,330.43	199,200	Assuming approximately 332,000 children in the 46 SEA operated States and 2.5 children

⁸ Estimated hours per SEA across all 46 SEAs – where all 46 SEAs will do the §200.89(b)(2) prospective re-interviewing annually (6,992 hours for all 46 SEAs), but only 2 SEAs will also do the §200.89(b)(1) retrospective re-interviewing once over the next 3 year period (3,160 total for both SEAs). Total number of hours (6,992 + 3,160) is 10,152. Across all 46 SEAs total is 220.70 hours per SEA.

⁹ Total of 600 under §200.89(b)(1) + 2,300 under §200.89(b)(2) = 2,900 parents.

		132,800 parents ¹⁰	0.5	66,400	per family (and per COE) and 1.5 hours to initially locate, travel to and conduct a ½ hour interview with each family.
Write up the COE & other SEA-required eligibility documentation (record-keeping)	Once per 3-years of eligibility	46 SEAS	721.74	33,200	Assuming 15 minutes per COE. One COE is done for every family (each with an average of 2.5 children).
Update/Revise COE as necessary ¹¹ (record-keeping)	Twice within 3-year eligibility period	46 SEAs	2,886.96	132,800	Assuming an average of ½ hour per COE per year for each of two of three years.
		132,800 parents	1.0	132,800	
TOTAL for §200.89(c)		46 SEAs	7,939.13	365,200	
		132,800 parents	1.5	199,200	
				564,400	

200.89(d)	Frequency of response	# of Respondents	Average # of Hours per respondent	Total Hours	Description
Quality Control Procedures					
(4) SEA/LEA COE reviews (record-	Annually	46 SEAs	481.16	22,133.33	Assuming 132,800 COEs (new or updated) and 10

¹⁰ Assumes 1 parent per family needs to be interviewed.

¹¹ This would include the survey data required to document the temporary nature of employment under 34 CFR §200.89(a)(i).

<i>keeping)</i>					minutes per COE for review.
(6) Documentation of quality control processes and improvement (<i>record-keeping</i>)	Annually	46 SEAs	200	9,200	Assumes 200 hours of person time per year to prepare needed documentation
TOTAL for §200.89(d)		46 SEAs	681.16	31,333.33	

Estimates of annualized burden:

- Amortized over the four-year ESEA authorization, **the annual SEA burden to address the 34 CFR § 200.83 (including "Needs Assessment," initial "Plan Development," and "Plan Update" requirements)** would be: $(29,601 + 7,360 + 7,360 + 3,680)$ hours/4 years = **12,000 hours/year**.
- Amortized over the four-year ESEA authorization, **the total annual burden to address the 34 CFR § 200.84 requirements** would be: $20,240$ hours / 4 years = **5,060 hours/year**.
- Amortized over the four-year ESEA authorization, **the total annual burden to address the 34 CFR § 200.88 requirements** would be: 184 hours / 4 years = **46 hours/year**.
- Amortized over the next three years, **the annual burden to address the 34 CFR § 200.89(b)(1) requirements** would be $3,460$ hours / 3 years = **1,153 hours/year**. **The annual burden to address the 34 CFR § 200.89(b)(2) requirements would be 8,142 hours/year**. Therefore, **the total annual burden to address the 34 CFR § 200.89(b) requirements** would be: $1,153 + 8,142 = 9,295$ hours/year.
- Amortized over the 3-year eligibility cycle, **the annual burden to address the 34 CFR § 200.89(c) requirements** would be $564,400/3$ years = **188,133 hours/year**.
- **The annual burden to address the 34 CFR § 200.89(d) requirements** would be **31,333 hours/year**.

Annual burden total = 564,400

Estimates of annualized cost to respondents:

SEA Respondents

Estimating respondent cost at an average of \$25/ hour for SEA staff carrying out analysis and reporting in 34 CFR §§200.83, 200.84, 200.88, and 200.89(d), and \$10/hour for SEA staff carrying out interviews in 34 CFR §§200.89(b) and 200.89(c), **the average cost per State** would be:

- With a total **annual** burden of 12,000 hours/year for all 46 SEAs, **the annual cost per SEA to address the full § 200.83 requirements** would be: $(\$25/\text{hour} \times 12,000 \text{ hours}) / 46 \text{ SEAs} = \$6,522/\text{year}$.
- With a total **annual** burden of 5,060 hours/year for all 46 SEAs, **the annual cost per SEA to address the full § 200.84 requirements** would be: $(\$25/\text{hour} \times 5,060 \text{ hours}) / 46 \text{ SEAs} = \$2,750/\text{year}$.
- $\$25/\text{hour} \times 4 \text{ hours} = \100.00 per State to address the § 200.88 requirements (on a one-time basis). Amortized over the four year ESEA authorization, **the annual cost per SEA to address the § 200.88 requirements** would be: $\$100.00 / 4 \text{ years} = \$25/\text{year}$.
- $(\$10/\text{hour} \times 1,200 \text{ hours}) + (\$25/\text{hour} \times 380 \text{ hours}) = \$12,000 + \$9,500 = \$21,500$ per State to address § 200.89(b)(1) on a one-time basis, and $\$21,500/3 = \$7,167$ **annually per State amortized over the next 3 years**. $(\$10/\text{hour} \times 100 \text{ hours}) + (\$25/\text{hour} \times 52 \text{ hours}) = \$1,000 + \$1,300 = \$2,300$ **per State to address § 200.89(b)(2) annually**. Therefore, the annual cost per SEA to address the § 200.89(b) requirements would be $(\$7,167 + \$2,300) = \$9,467/\text{year}$ for 2 States and \$2,300 for 44 States. Averaged across all 46 States, **the annual cost per SEA would be** $[(\$9,467 \times 2) + (\$2,300 \times 44)]/46 = \$2,612/\text{year}$.
- $[\$10/\text{hour} \times (4,330 + 722)/3 = \$16,840] + [\$10/\text{hr.} \times (2,887/2) = \$14,435]$ Amortized over the 3 year eligibility cycle, **the annual cost per SEA to address the § 200.89(c) requirements** would be **\$31,275/year**.
- **The annual cost per SEA to address the § 200.89(d) requirements** would be $(\$25/\text{hour} \times 681 \text{ hours}) = \$17,025/\text{year}$.

Annual Total Costs

Annual total cost estimates do not include costs to the Federal government.

- **The annual total cost to address the full § 200.83 requirements would be:** $(\$6,522/\text{SEA} \times 46 \text{ SEAs}) = \$300,012/\text{year}$.
- **The annual total cost to address the § 200.84 requirements would be:**

$(\$2,750/\text{SEA} \times 46 \text{ SEAs}) = \$126,500/\text{year}.$

- **The annual total cost to address the § 200.88 requirements would be:** $\$25/\text{SEA} \times 46 \text{ SEAs} = \$1,150/\text{year}.$
- **The annual total cost to address the § 200.89(b) requirements would be:** $\$7,167/\text{SEA} \times 2 \text{ SEAs} + \$2,300/\text{SEA} \times 46 \text{ SEAs} = \$120,134.$
- **The annual total cost to address the § 200.89(c) requirements would be:** $\$31,275/\text{SEA} \times 46 \text{ SEAs} = \$1,438,650.$
- **The annual total cost to address the § 200.89(d) requirements would be:** $\$17,025/\text{SEA} \times 46 \text{ SEAs} = \$783,150.$

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Questions 12 and 14.)

- *The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.*
- *If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*
- *Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Question 12.*

Total Annualized Capital/Startup Cost:

Total Annual Costs (O&M):

Total Annualized Costs Requested:

The only costs to respondents are those shown above for staff time for data collection and reporting. There should be no record-keeping costs beyond those covered under customary and usual business practices.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Questions 12, 13, and 14 in a single table.

Federal costs associated with this collection of information consist of staff time to monitor SEAs.

Estimated Annualized Federal Cost of Department Monitoring

In regard to staff time for monitoring SEAs, Department staff could be expected to spend two hours reviewing an SEA's needs assessment and service delivery plan (34 CFR § 200.83); two hours reviewing a SEA's program evaluation (34 CFR § 200.84); one-half hour reviewing SEA's written determinations supporting the exclusion of State or local funds from "comparability" and "supplement, not supplant" provisions of the statute in preparation for program monitoring (34 CFR § 200.88); four hours reviewing an SEA's retrospective re-interviewing documentation (34 CFR § 200.89(b)(1)); two hours reviewing an SEA's prospective re-interviewing documentation (34 CFR § 200.89(b)(2)); five hours reviewing an SEA's COEs (34 CFR §200.89(c)); and two hours reviewing an SEA's Quality Control system and documentation (34 CFR § 200.89(d)).

§ 200.83 Activities						
Number of Needs Assessments & Service Delivery Plans	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
16 SEAs	2 hours	32 hours	\$48	\$1,536	0.00	\$1,536

§ 200.84 Activities						
Number of Program Evaluations	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
16	2 hours	32	\$48	\$1,536	0.00	\$1,536

§ 200.88 Activities						
Number of Program	Review Time	Total Review	Wage Rate for	Total Personnel	Other Costs	Total Cost of Review

Exclusions		Time	Personnel	el Cost		
16 SEAs	.5 hours	8 hours	\$48	\$384	0.00	\$384

§ 200.89(b) Activities						
Re-interviewing documentation	Review Time	Total Review Time	Wage Rate for Personnel ¹²	Total Personnel Cost	Other Costs	Total Cost of Review
16 SEAs ¹³	6 hours	96 hours	\$48	\$4,608	0.00	\$4,608

§ 200.89(c) Activities						
Eligibility documentation	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
16 SEAs	5 hours	80 hours	\$48	\$3,840	0.00	\$3,840

§ 200.89(d) Activities						
Quality Control Documentation	Review Time	Total Review Time	Wage Rate for Personnel	Total Personnel Cost	Other Costs	Total Cost of Review
16 SEAs	2 hours	32 hours	\$48	\$1,536	0.00	\$1,536

The total annual cost to the Federal Government for Department monitoring of SEAs is \$13,440.

15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

There is an adjustment decrease of -18,001 responses and an increase of 285, 807 annual burden hours.

There was an overall reduction in SEA burden and responses. This reduction was achieved not as a result of deliberate Federal government action, but rather due to decreases in the number of eligible migratory children, a decrease in the number of SEAs participating in the MEP since the last approval of this form, and decreases in the number of SEAs that the Department expects will

¹² FY 2016 pay rate for a GS-12/10

¹³ 16 SEAs reflects an annualized figure – over 3-years -- of the 46 SEAs to be reviewed

be required to implement retrospective re-interviewing, as described in 34 CFR § 200.89(b)(1). The annualized burden of 34 CFR §§ 200.83, 200.84, and 200.88 was changed due to those one-time costs occurring at least once per ESEA authorization cycle of four years (compared to the previous ESEA authorization period of six years). In its 2011 and 2014 requests for renewed approval of the information collection, the Department decreased the burden associated with 34 CFR § 200.89(b)(1) because all States had an ED-accepted defect rate and no State was required to implement the retrospective re-interview process as a result of corrective action. The Secretary is further reducing the burden in 2017 because no States have been required to implement the retrospective re-interview process as a result of corrective action, and it is unlikely that as many as four States will need to do so in the next three years. The burden per respondent for the COE as described in 34 CFR § 200.89(c) remains the same because although some additional burden is incurred as a result of the added questions (needed to demonstrate compliance with the new statutory language in ESSA), there was an equivalent reduction in burden achieved by the removal of previously included questions (which were needed to demonstrate compliance with the statute, prior to its amendment by ESSA).

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used.

The collection of information does not require publication of the information (except for 34 CFR § 200.89(b)) or use of complex analytical techniques. The defect rates reported under 34 CFR § 200.89(b)(1) will be reported by the Secretary in tabular form to the States, Congress and the public.

17. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The information collection is ongoing, and necessary for each SEA to design, implement, and improve its Statewide MEP.

The following requirements need to be implemented at least once during the current period of authorization for ESEA: needs assessment and service delivery plan under § 200.83, program evaluation under 34 CFR § 200.84, and the SEA's advance written determination that a State or locally funded program meets the intents and purposes of part C of Title I under 34 CFR § 200.88.

The retrospective re-interviewing process required under 34 CFR § 200.89(b)(1), which has already been done by SEAs, had to be implemented once during the previous period of authorization of ESEA. The prospective re-interviewing process under 34 CFR § 200.80(b)(2) must be implemented annually. Identification of eligible migrant children and documentation of eligibility status under 34 CFR § 200.89(c) is an activity carried out on an ongoing basis. SEAs must implement the quality control processes required under 34 CFR § 200.89(d) throughout the period of authorization of ESEA.

Relative to existing 34 CFR § 200.89(c): The information collection instrument (national COE Instructions) has been updated to reflect recent changes to the program eligibility criteria made by the ESSA. The changes to MEP requirements, including changes to program eligibility, will

be effective starting July 1, 2017. SEAs will be required to use the revised COE on and after July 1, 2017, provided OMB approves this information collection prior to that date.

18. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Department is not seeking this approval.

19. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

Exception (i) in Item 20 – Statistical survey methodology does not apply. There are no other proposed exceptions to the certifications except that the Paperwork statement will not be included on the COE.

Attachment A: Applicable Statute (Sections 1301 – 1309 of the ESEA, as amended by ESSA)

PART C—EDUCATION OF MIGRATORY CHILDREN

SEC. 1301. PROGRAM PURPOSES.

The purposes of this part are as follows:

- (1) To assist States in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods, that address the unique educational needs of migratory children.
- (2) To ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and challenging State academic standards.
- (3) To ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic standards that all children are expected to meet.
- (4) To help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school.
- (5) To help migratory children benefit from State and local systemic reforms.

SEC. 1302. PROGRAM AUTHORIZED.

In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

SEC. 1303. STATE ALLOCATIONS.

(a) STATE ALLOCATIONS.—Except as provided in subsection (c), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to the product of—

- (1) the sum of—
 - (A) the average number of identified eligible migratory children aged 3 through 21 residing in the State, based on data for the preceding 3 years; and
 - (B) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during the previous year; multiplied by
- (2) 40 percent of the average per-pupil expenditure in the

State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(b) HOLD HARMLESS.—Notwithstanding subsection (a), for each of fiscal years 2017 through 2019, no State shall receive less than 90 percent of the State’s allocation under this section for the preceding fiscal year.

(c) ALLOCATION TO PUERTO RICO.—

(1) IN GENERAL.—For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection

(a)(1) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States, subject to paragraphs (2) and (3); and

(B) 32 percent of the average per-pupil expenditure in the United States.

(2) MINIMUM PERCENTAGE.—The percentage described in paragraph (1)(A) shall not be less than 85 percent.

(3) LIMITATION.—If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

(d) RATABLE REDUCTIONS; REALLOCATIONS.—

(1) IN GENERAL.—

(A) RATABLE REDUCTIONS.—If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) REALLOCATION.—If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purposes of this part.

(2) SPECIAL RULE.—

(A) FURTHER REDUCTIONS.—The Secretary shall further

reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1304.

(B) REALLOCATION.—The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(e) CONSORTIUM ARRANGEMENTS.—

(1) IN GENERAL.—In the case of a State that receives a grant of \$1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

(2) PROPOSALS.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the academic achievement of children to be served under this part.

(f) DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the identified number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use the most recent information that most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for monitoring the accuracy of such information;

(3) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(4) adjust the number of migratory children who reside in each State to take into account—

(A) the unique needs of those children participating in effective special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs;
and

(5) conduct an analysis of the options for adjusting the formula so as to better direct services to migratory children, including the most at-risk migratory children.

(g) **NONPARTICIPATING STATES.**—In the case of a State desiring to receive an allocation under this part for a fiscal year that did not receive an allocation for the previous fiscal year or that has been participating for less than 3 consecutive years, the Secretary shall calculate the State’s number of identified migratory children aged 3 through 21 for purposes of subsection (a)(1)(A) by using the most recent data available that identifies the migratory children residing in the State until data is available to calculate the 3-year average number of such children in accordance with such subsection.

SEC. 1304. STATE APPLICATIONS; SERVICES.

(a) **APPLICATION REQUIRED.**—Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) **PROGRAM INFORMATION.**—Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the unique educational needs of migratory children, including preschool migratory children and migratory children who have

dropped out of school, are identified and addressed through—

(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(B) joint planning among local, State, and Federal educational programs serving migratory children, including language instruction educational programs under part A of title III;

(C) the integration of services available under this part with services provided by those other programs; and

(D) measurable program objectives and outcomes;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State academic standards that all children are expected to meet;

(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

(4) a description of the State’s priorities for the use of

funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs; and

(6) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children whose parents do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

(c) ASSURANCES.—Each such application shall also include assurances that—

(1) funds received under this part will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (c) of section 1118, and part F;

(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parents of migratory children, including parent advisory councils, for programs not less than 1 school year in duration, and that all such programs and projects are carried out—

(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 1116, unless extraordinary circumstances make such provision impractical; and

(B) in a format and language understandable to the parents;

(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children and migratory children who have dropped out of school;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and

standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

(6) such programs and projects will provide for outreach activities for migratory children and their families to inform such children and families of other education, health, nutrition, and social services to help connect them to such services;

(7) to the extent feasible, such programs and projects will provide for—

(A) advocacy and other outreach activities for migratory children and their families, including helping such children and families gain access to other education, health, nutrition, and social services;

(B) professional development programs, including mentoring, for teachers and other program personnel;

(C) family literacy programs;

(D) the integration of information technology into educational and related programs; and

(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

(8) the State will assist the Secretary in determining the number of migratory children under section 1303(a)(1).

(d) PRIORITY FOR SERVICES.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who have made a qualifying move within the previous 1-year period and who—

(1) are failing, or most at risk of failing, to meet the challenging State academic standards; or

(2) have dropped out of school.

(e) CONTINUATION OF SERVICES.—Notwithstanding any other provision of this part—

(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

(2) a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and

(3) students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

SEC. 1305. SECRETARIAL APPROVAL; PEER REVIEW.

The Secretary shall approve each State application that meets the requirements of this part, and may review any such application with the assistance and advice of State officials and other officials with relevant expertise.

SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND

SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

(a) COMPREHENSIVE PLAN.—

(1) IN GENERAL.—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan that—

(A) is integrated with other programs under this Act or other Acts, as appropriate;

(B) may be submitted as a part of a consolidated application under section 8302, if—

(i) the unique needs of migratory children are specifically addressed in the comprehensive State plan;

(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

(C) provides that migratory children will have an opportunity to meet the same challenging State academic standards that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and language instruction educational programs under part A of title III; and

(G) provides for the integration of services available under this part with services provided by such other programs.

(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) AUTHORIZED ACTIVITIES.—

(1) FLEXIBILITY.—In implementing the comprehensive plan described in subsection (a), each State educational agency, where applicable through its local educational agencies, retains the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit

these children to participate effectively in school.

(2) UNADDRESSED NEEDS.—Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

(3) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

(4) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1), and shall meet the unique educational needs of migratory children before using funds under this part for schoolwide programs under section 1114.

SEC. 1307. BYPASS.

The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private agency to carry out the purpose of this part in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the educational achievement of such children.

SEC. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

(a) IMPROVEMENT OF COORDINATION.—

(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies' educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory children.

(2) DURATION.—Grants under this subsection may be awarded for not more than 5 years.

(b) STUDENT RECORDS.—

(1) ASSISTANCE.—The Secretary shall assist States in the electronic transfer of student records and in determining the

number of migratory children in each State.

(2) INFORMATION SYSTEM.—

(A) IN GENERAL.—The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students eligible under this part. The Secretary shall ensure that such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of the enactment of the Every Student Succeeds Act. Such information may include—

- (i) immunization records and other health information;
- (ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments under section 1111(b)(2);
- (iii) other academic information essential to ensuring that migratory children achieve to the challenging State academic standards; and
- (iv) eligibility for services under the Individuals with Disabilities Education Act.

(B) CONSULTATION.—The Secretary shall maintain ongoing consultation with the States, local educational agencies, and other migratory student service providers on—

- (i) the effectiveness of the system described in subparagraph (A); and
- (ii) the ongoing improvement of such system.

(C) NOTICE AND COMMENT.—After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on any new proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information.

(3) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

(c) AVAILABILITY OF FUNDS.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than \$10,000,000 of the amount appropriated to carry out this part for such year.

(d) INCENTIVE GRANTS.—From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve

not more than \$3,000,000 to award grants of not more than \$250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

(e) DATA COLLECTION.—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

SEC. 1309. DEFINITIONS.

As used in this part:

(1) LOCAL OPERATING AGENCY.—The term “local operating agency” means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State’s migrant education program or projects directly.

(2) MIGRATORY AGRICULTURAL WORKER.—The term “migratory agricultural worker” means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(3) MIGRATORY CHILD.—The term “migratory child” means a child or youth who made a qualifying move in the preceding 36 months—

(A) as a migratory agricultural worker or a migratory fisher; or

(B) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(4) MIGRATORY FISHER.—The term “migratory fisher” means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal

fishing employment.

(5) QUALIFYING MOVE.—The term “qualifying move” means a move due to economic necessity—

(A) from one residence to another residence; and

(B) from one school district to another school district, except—

(i) in the case of a State that is comprised of a single school district, wherein a qualifying move is from one administrative area to another within such district; or

(ii) in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.

Attachment B: Applicable Regulations**§200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery.**

(a) An SEA that receives a grant of MEP funds must develop and update a written comprehensive State plan (based on a current statewide needs assessment that, at a minimum, has the following components:

(1) *Performance targets*. The plan must specify—

(i) Performance targets that the State has adopted for all children in reading and mathematics achievement, high school graduation, and the number of school dropouts, as well as the State's performance targets, if any, for school readiness; and

(ii) Any other performance targets that the State has identified for migratory children.

(2) *Needs assessment*. The plan must include an identification and assessment of—

(i) The unique educational needs of migratory children that result from the children's migratory lifestyle; and

(ii) Other needs of migratory students that must be met in order for migratory children to participate effectively in school.

(3) *Measurable program outcomes*. The plan must include the measurable program outcomes (i.e., objectives) that a State's migrant education program will produce to meet the identified unique needs of migratory children and help migratory children achieve the State's performance targets identified in paragraph (a)(1) of this section.

(4) *Service delivery*. The plan must describe the strategies that the SEA will pursue on a statewide basis to achieve the measurable program outcomes in paragraph (a)(3) of this section by addressing—

(i) The unique educational needs of migratory children consistent with paragraph (a)(2)(i) of this section; and

(ii) Other needs of migratory children consistent with paragraph (a)(2)(ii) of this section.

(5) *Evaluation*. The plan must describe how the State will evaluate the effectiveness of its program.

(b) The SEA must develop its comprehensive State plan in consultation with the State parent advisory council or, for SEAs not operating programs for one school year in duration, in consultation with the parents of migratory children. This consultation must be in a format and language that the parents understand.

(c) Each SEA receiving MEP funds must ensure that its local operating agencies comply with the comprehensive State plan.

(Approved by the Office of Management and Budget under control number 1810-0662)

(Authority: 20 U.S.C. 6396) [67 FR 71736, Dec. 2, 2002, as amended at 68 FR 19152, Apr. 18, 2003; 73 FR 44124, July 29, 2008]

Effective Date Note: At 73 FR 44124, July 29, 2008, §200.83 was amended. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§200.84 Responsibilities for evaluating the effectiveness of the MEP and using evaluations to improve services to migratory children.

(a) Each SEA must determine the effectiveness of its MEP through a written evaluation that measures the implementation and results achieved by the program against the State's performance targets in §200.83(a)(1), particularly for those students who have priority for service as defined in section 1304(d) of the ESEA.

(b) SEAs and local operating agencies receiving MEP funds must use the results of the evaluation carried out by an SEA under paragraph (a) of this section to improve the services provided to migratory children.

(Authority: 20 U.S.C. 6394)

[81 FR 28970, May 10, 2016]

§200.88 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations.

(a) For purposes of determining compliance with the comparability requirement in section 1120A(c) and the supplement, not supplant requirement in section 1120A(b) of the ESEA, a grantee or subgrantee under part C of Title I may exclude supplemental State and local funds expended in any school attendance area or school for carrying out special programs that meet the intent and purposes of part C of Title I.

(b) Before funds for a State and local program may be excluded for purposes of these requirements, the SEA must make an advance written determination that the program meets the intent and purposes of part C of Title I.

(c) A program meets the intent and purposes of part C of Title I if it meets the following requirements:

(1) The program is specifically designed to meet the unique educational needs of migratory children, as defined in section 1309 of the ESEA.

(2) The program is based on performance targets related to educational achievement that are similar to those used in programs funded under part C of Title I of the ESEA, and is evaluated in a manner consistent with those program targets.

(3) The grantee or subgrantee keeps, and provides access to, records that ensure the correctness and verification of these requirements.

(4) The grantee monitors program performance to ensure that these requirements are met.

(Approved by the Office of Management and Budget under control number 1810-0662)

(Authority 20 U.S.C. 6321(d))

[67 FR 71736, Dec. 2, 2002; 68 FR 19152, Apr. 18, 2003]

§200.89 MEP allocations; Re-interviewing; Eligibility documentation; and Quality control.

(a) *Allocation of funds under the MEP for fiscal year (FY) 2006 and subsequent years.* (1) For purposes of calculating the size of MEP allocations for each SEA for FY 2006 and subsequent years (as well as for supplemental MEP allocations for FY 2005), the Secretary determines each

SEA's FY 2002 base allocation amount under section 1303(a)(2) and (b) of the Act by applying, to the counts of eligible migratory children that the SEA submitted for 2000-2001, the defect rate that the SEA reports to the Secretary and that the Secretary accepts based on a statewide retrospective re-interviewing process that the SEA has conducted.

(2)(i) The Secretary conditions an SEA's receipt of final FY 2007 and subsequent-year MEP awards on the SEA's completion of a thorough re-documentation of the eligibility of all children (and the removal of all ineligible children) included in the State's 2007-2008 MEP child counts. (ii) To carry out this re-documentation, an SEA must examine its rolls of all currently identified migratory children and remove from the rolls all children it judges to be ineligible based on the types of problems identified in its statewide retrospective re-interviewing as causing defective eligibility determinations.

(b) *Responsibilities of SEAs for re-interviewing to ensure the eligibility of children under the MEP*—(1) *Retrospective re-interviewing.* (i) As a condition for the continued receipt of MEP funds in FY 2006 and subsequent years, an SEA that received such funds in FY 2005 but did not implement a statewide re-interviewing process prior to the enactment of this regulation, as well as an SEA with a defect rate that is not accepted by the Secretary under paragraph (a)(1) of this section, or an SEA under a corrective action issued by the Secretary under paragraph (b)(2)(vii) or (d)(7) of this section, must, within six months of the effective date of these regulations or as subsequently required by the Secretary,—

(A) Conduct a statewide re-interviewing process consistent with paragraph (b)(1)(ii) of this section; and

(B) Consistent with paragraph (b)(1)(iii) of this section, report to the Secretary on the procedures it has employed, its findings, its defect rate, and corrective actions it has taken or will take to avoid a recurrence of any problems found.

(ii) At a minimum, the re-interviewing process must include—

(A) Selection of a sample of identified migratory children (from the child counts of a particular year as directed by the Secretary) randomly selected on a statewide basis to allow the State to estimate the statewide proportion of eligible migratory children at a 95 percent confidence level with a confidence interval of plus or minus 5 percent.

(B) Use of independent re-interviewers (i.e., interviewers who are neither SEA or local operating agency staff members working to administer or operate the State MEP nor any other persons who worked on the initial eligibility determinations being tested) trained to conduct personal interviews and to understand and apply program eligibility requirements; and

(C) Calculation of a defect rate based on the number of sampled children determined ineligible as a percentage of those sampled children whose parent/guardian was actually re-interviewed.

(iii) At a minimum, the report must include—

(A) An explanation of the sample and procedures used in the SEA's re-interviewing process;

(B) The findings of the re-interviewing process, including the determined defect rate;

(C) An acknowledgement that, consistent with §200.89(a), the Secretary may adjust the child counts for 2000-2001 and subsequent years downward based on the defect rate that the Secretary accepts;

(D) A summary of the types of defective eligibility determinations that the SEA identified through the re-interviewing process;

(E) A summary of the reasons why each type of defective eligibility determination occurred; and

(F) A summary of the corrective actions the SEA will take to address the identified problems.

(2) *Prospective re-interviewing.* As part of the system of quality controls identified in

- §200.89(d), an SEA that receives MEP funds must, on an annual basis, validate current-year child eligibility determinations through the re-interview of a randomly selected sample of children previously identified as migratory. In conducting these re-interviews, an SEA must—
- (i) Use, at least once every three years, one or more independent interviewers (i.e., interviewers who are neither SEA or local operating agency staff members working to administer or operate the State MEP nor any other persons who worked on the initial eligibility determinations being tested) trained to conduct personal interviews and to understand and apply program eligibility requirements;
 - (ii) Select a random sample of identified migratory children so that a sufficient number of eligibility determinations in the current year are tested on a statewide basis or within categories associated with identified risk factors (e.g., experience of recruiters, size or growth in local migratory child population, effectiveness of local quality control procedures) in order to help identify possible problems with the State's child eligibility determinations;
 - (iii) Conduct re-interviews with the parents or guardians of the children in the sample. States must use a face-to-face approach to conduct these re-interviews unless circumstances make face-to-face re-interviews impractical and necessitate the use of an alternative method such as telephone re-interviewing;
 - (iv) Determine and document in writing whether the child eligibility determination and the information on which the determination was based were true and correct;
 - (v) Stop serving any children found not to be eligible and remove them from the data base used to compile counts of eligible children;
 - (vi) Certify and report to the Department the results of re-interviewing in the SEA's annual report of the number of migratory children in the State required by the Secretary; and
 - (vii) Implement corrective actions or improvements to address the problems identified by the State (including the identification and removal of other ineligible children in the total population), and any corrective actions, including retrospective re-interviewing, required by the Secretary.
- (c) *Responsibilities of SEAs to document the eligibility of migratory children.* (1) An SEA and its operating agencies must use the Certificate of Eligibility (COE) form established by the Secretary to document the State's determination of the eligibility of migratory children. (2) In addition to the form required under paragraph (a) of this section, the SEA and its operating agencies must maintain any additional documentation the SEA requires to confirm that each child found eligible for this program meets all of the eligibility definitions in §200.81. (3) An SEA is responsible for the accuracy of all the determinations of the eligibility of migratory children identified in the State.
- (d) *Responsibilities of an SEA to establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children.* An SEA must establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children on a statewide basis. At a minimum, this system of quality controls must include the following components:
- (1) Training to ensure that recruiters and all other staff involved in determining eligibility and in conducting quality control procedures know the requirements for accurately determining and documenting child eligibility under the MEP.
 - (2) Supervision and annual review and evaluation of the identification and recruitment practices of individual recruiters.
 - (3) A formal process for resolving eligibility questions raised by recruiters and their supervisors

and for ensuring that this information is communicated to all local operating agencies.

(4) An examination by qualified individuals at the SEA or local operating agency level of each COE to verify that the written documentation is sufficient and that, based on the recorded data, the child is eligible for MEP services.

(5) A process for the SEA to validate that eligibility determinations were properly made, including conducting prospective re-interviewing as described in paragraph (b)(2).

(6) Documentation that supports the SEA's implementation of this quality-control system and of a record of actions taken to improve the system where periodic reviews and evaluations indicate a need to do so.

(7) A process for implementing corrective action if the SEA finds COEs that do not sufficiently document a child's eligibility for the MEP, or in response to internal State audit findings and recommendations, or monitoring or audit findings of the Secretary.

Authority: 20 U.S.C. 6391-6399, 6571, 7844(d); 18 U.S.C. 1001.

[73 FR 44124, July 29, 2008]

Effective Date Note: At 73 FR 44124, July 29, 2008, §200.89 was added. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.